

Senate Bill No. 84

Passed the Senate March 13, 1997

Secretary of the Senate

Passed the Assembly May 15, 1997

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 18895.2 of the Business and Professions Code, relating to athlete agents, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 84, Ayala. Athlete agents: talent agencies.

The Miller-Ayala Athlete Agents Act regulates the activities of athlete agents, as specified. Under the act, certain professional persons are excluded from the definition of “athlete agent” if the professional person offers or provides the type of services customarily provided by that person’s profession and does not otherwise recruit or solicit an athlete to enter into any agent contract, endorsement contract, financial services contract, or professional sports services contract, or engage in other specified activities. Existing law also regulates talent agencies, which are licensed by the Labor Commissioner.

This bill would additionally exclude from the definition of “athlete agent” a licensed talent agency, unless the talent agency recruits or solicits a student athlete, as specified, or unless the talent agency, for compensation, seeks to obtain employment for any person to perform on-field play with a professional sports team or organization.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 18895.2 of the Business and Professions Code is amended to read:

18895.2. The following definitions govern the construction of this chapter:

(a) “Agent contract” means any contract or agreement pursuant to which a person authorizes or



empowers an athlete agent to negotiate or solicit on behalf of the person with one or more professional sports teams or organizations for the employment of the person by one or more professional sports teams or organizations, or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(b) (1) “Athlete agent” means any person who, directly or indirectly, recruits or solicits an athlete to enter into any agent contract, endorsement contract, financial services contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.

(2) (A) “Athlete agent” does not include a person licensed as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, or tax consultant, or other professional person, when the professional person offers or provides the type of services customarily provided by that profession, except and solely to the extent that the professional person also recruits or solicits an athlete to enter into any agent contract, endorsement contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.

(B) “Athlete agent” also does not include any person acting solely on behalf of a professional sports team or organization.

(C) “Athlete agent” also does not include a talent agency as defined in subdivision (a) of Section 1700.4 of the Labor Code and licensed by the Labor Commissioner pursuant to Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of the Labor Code, except as otherwise provided in this paragraph. “Athlete agent” includes a talent agency that (i) directly or indirectly recruits or solicits a student athlete to enter into an agent contract, endorsement contract, financial services contract, or professional sports services contract, or (ii)



for compensation, procures, offers, promises, attempts, or negotiates to obtain employment for any person to perform on-field play with a professional sports team or organization.

(3) Sections 18897.6 and 18897.63 do not apply to an individual acting as an athlete agent solely for his or her spouse, child, or grandchild.

(c) “Employment as a professional athlete” includes employment pursuant to an endorsement contract or a professional sports services contract.

(d) “Endorsement contract” means any contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity, reputation, fame, or following obtained because of athletic ability or performance.

(e) “Financial services” means the making or execution of an investment or other financial decision, or counseling as to a financial decision.

(f) “Negotiate” includes any contact on behalf of any athlete with a professional sports team or organization or on behalf of any person with any other person who employs or potentially may employ the person as a professional athlete, regardless of whether the contact is made in person, in writing, electronically, through representatives or employees, or in any other manner. “Negotiate” also includes being present during any discussion of an endorsement contract or professional sports services contract with representatives of the professional sports team or organization or potential or actual employer.

(g) “Person” means any individual, company, corporation, association, partnership, limited liability company, or their agents or employees.

(h) “Professional sports services contract” means any contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sports team or organization or as a professional athlete.



(i) (1) “Student athlete” means any individual admitted to or enrolled as a student, in an elementary or secondary school, college, university, or other educational institution if the student participates, or has informed the institution of an intention to participate, as an athlete in a sports program where the sports program is engaged in competition with other educational institutions.

(2) “Student athlete” does not include any person who has entered into a valid agent contract, a valid endorsement contract, or a valid professional sports services’ contract. “Student athlete” does not include any student of a college or university whose eligibility to participate in an intercollegiate sport has terminated, as determined by the governing body of the state or national association for the promotion and regulation of intercollegiate athletics of which the student’s college or university is a member.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify, at the earliest possible time, provisions of the Miller-Ayala Athlete Agents Act relative to the status of talent agencies, it is necessary for this act to take effect immediately.



Approved _____, 1997

Governor

